

DEPARTMENT OF WATER RESOURCES

California Energy Resources Scheduling
PO Box 219001
3310 El Camino Avenue, Suite 120
SACRAMENTO, CA 95821-9001
(916)574-1291



November 15, 2002

Mr. Ken Whitmire, President
Capitol Power, Incorporated
4655 Coal Mine Road
Ione, California 95640

sent via facsimile and
overnight delivery

Dear Mr. Whitmire:

The California Department of Water Resources ("DWR") references the Non-Firm Energy Purchase Agreement dated August 23, 2001, as amended by the First Amendment to the Non-Firm Energy Purchase Agreement dated March 8, 2002 (the "Amended Agreement"), between Capitol Power, Inc. ("Capitol") and DWR. All capitalized terms used, but not otherwise defined herein, shall have the same meaning given to them in the Amended Agreement.

Capitol has failed to meet the major milestones specified in the Amended Agreement: Accordingly, DWR hereby exercises its rights to terminate the Amended Agreement, pursuant to Section 6.04 and Appendix A thereof, based on the following facts:

1. Capitol failed to obtain regulatory authority from all applicable permitting authorities by April 15, 2002. Seven months after missing that deadline, Capitol has not yet obtained the necessary regulatory permits for the Ione facility and, in particular, has not obtained air permits from the Amador County Air Pollution Control District or water permits from the Jackson Valley Irrigation District. Capitol still needs to obtain title to the plant and pay back fees prior to obtaining those permits.
2. The Commercial Operation Date did not occur by July 15, 2002. Four months after missing that deadline (and a full year after the initially agreed-upon commercial operation date), Capitol does not anticipate bringing the plant on line for at least two months from the date the Pacific Gas and Electric ("PG&E") interconnection work is commenced.

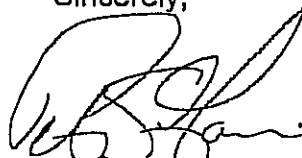
Capitol has rejected the terms under which DWR previously stated it would consider negotiating new milestones.

In addition, after meeting with representatives of Capitol on Tuesday November 12, 2002, it is clear to DWR that Capitol has failed to perform other material obligations of the Amended Agreement, that those failures continue, and that Capitol either cannot or will not cure those failures in the near future:

1. Electric Interconnection. Despite a May 15, 2002 deadline, set forth in Appendix A to the Amended Agreement, Capitol has not yet completed the electric interconnection. In a meeting with Capitol on October 2, 2002, Capitol informed DWR that it would be paying an interconnection fee to PG&E within a matter of days. At the November 12, 2002 meeting, Capitol informed DWR that it had not made that payment and that it would not be making any interconnection payment to PG&E *unless and until* DWR executed Capitol's form of amended and restated agreement provided to DWR on that day.
2. Facility Testing. The facility was not ready for testing on May 15, 2002, as required under the Appendix A to the Amended Agreement. It is still not ready for testing.
3. Progress Reports. Capitol has not provided the monthly progress reports "describing progress towards completion of all Major Milestone Activities for the Plant" required under Appendix A to the Amended Agreement. Additionally Capitol has failed to provide the biweekly progress reports required under Appendix A to the Amended Agreement concerning either: (a) milestones it had reasonable cause to believe it would be unable to complete; or (b) the several milestones it has missed.
4. Acquisition of Project. Capitol has not yet acquired title to the lone facility. In addition, Capitol indicated to DWR in the November 12, 2002 meeting that it would not be acquiring title to the facility until and unless DWR executed Capitol's form of amended and restated agreement provided to DWR on November 12, 2002.

If you have any questions or need additional information, you may contact Joe Judge, Contract Manager for the California Energy Resources, at (818) 543-4710.

Sincerely,



Peter S. Garris
Deputy Director

cc: Steven E. Mair, Esquire
Weintraub, Genshlea, Chediak, and Sproul